



## **Ordinance Number 516**

### **AN ORDINANCE REQUIRING PERMITS TO BE ISSUED FOR EXCAVATING AND RE-GRADING ACTIVITIES**

Sponsored By: John Pasquale, 6<sup>th</sup> District Councilman

First and Second Reading:  
May 13, 2010

Results: **Passed 7 In Favor, 0 Opposed**

Third and Final Reading:  
December 9, 2010

Results: **Passed 6 In Favor, 0 Opposed, with 1 Absent**

# Ordinance Number 516

## AN ORDINANCE REQUIRING PERMITS TO BE ISSUED FOR EXCAVATING AND RE-GRADING ACTIVITIES

**WHEREAS**, finding that left unmonitored, excavating and re-grading activities have the potential to create a devastating impact on surrounding properties.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE AS FOLLOWS:

No person shall excavate or re-grade any property, public or private, within the Town of Elsmere without first obtaining a permit as provided herein.

### **Definitions:**

For the purposes of this chapter, excavation and re-grading shall be defined as follows:

- (1) Excavation is the removal of more than six (6) cubic yards of any natural material including earth, black dirt, peat, sand, rock, gravel, or sod from any property.
- (2) Re-grading is the redistribution of more than six (6) cubic yards upon the same lot of any natural materials including earth, black dirt, peat, sand, rock, gravel, or sod.

### **Process for Obtaining a Permit:**

1. Any person desiring a license or permit shall make application to the Code Enforcement Department on forms provided by the department, such application to contain at a minimum the following;
  - a. The name and address of the applicant.
  - b. The address and legal description (Property Tax Identification Number) of the place where such excavation or removal is to take place.
  - c. The kind and quantity of material to be removed, the depth to which it is to be excavated, and the condition in which the property is to be left after removal of such materials.
2. Each application for permit shall be accompanied by a plan showing the following.

- a. Lines and grades.
  - b. Any drainage patterns which are not or are properly altered.
  - c. That storm water runoff is not increased.
  - d. The topography of the land both before and after the work.
  - e. That standard erosion control practices are met.
3. Prior to the issuance of a permit the applicant shall pay the actual cost incurred by the Town for all engineering, professional reviews and legal expenses incurred by the Town to process and consider the application.
4. Upon receipt an application shall be forwarded to the Town Engineer who shall review the application and prepare a report to be submitted to the Code Enforcement Department. The engineer's report shall discuss the effect upon the land as to drainage, future use, possible effect upon adjoining properties, compliance with codes and any other data related to these factors.
5. Once the engineer's report has been received, the application together with the engineer's report, shall be reviewed by the Code Enforcement Department personnel who shall grant or deny the permit. If the Code Enforcement Department finds that granting the application would not adversely affect surrounding properties a permit may be granted.
6. If granted the permit shall specify the nature and extent of the excavation or re-grading and prescribe conditions for carrying on such work.

Exceptions:

This chapter is intended to cover the excavation and re-grading of natural materials from lands but shall not apply to lands located within the flood plain, basement excavation or other excavation or earth removal activities which are already covered by the building or other codes.

May 13, 2010  
First and Second Reading

December 9, 2010  
Third and Final Reading

\_\_\_\_\_  
Deborah A. Norkavage, Mayor

\_\_\_\_\_  
Joann I. Personti, Secretary

\_\_\_\_\_  
Approved As To Form  
Edward McNally, Town Solicitor

### **SYNOPSIS:**

This Ordinance requires that a permit be applied for and received prior to the excavation or re-grading of any property, public or private, within the Town of Elsmere.

### **Fiscal Impact:**

This Ordinance is not expected to have any fiscal impact.